

Exhibit 2

4. July 22, 2019, I received Warden Whitten's 07/19/19 denial of my grievance requesting an exemption for my sacred items (feathers & dream catcher) from the policy requiring them to be put away in my locker or my gray property box (Exhibits A—A-2).

5. July 30, 2019, I received a reduction to earned credit level (ECL) 4 to ECL 3 from the quasi-judicial unit committee—which Mr. Grogan is chairman (See Exhibit B-1)—for exercising my sincerely held Native American religious beliefs to perpetually hang my two eagle feathers and 3" dream catcher at the head and foot of my bunk respectively.

6. July 31, 2019, I asked Grogan about an appeal of his decision to reduce my ECL 4 to ECL 3 and he told me there was no appeal available in DOC policy.

II. ARGUMENTS & AUTHORITIES:

7. The action taken by the quasi-judicial unit committee punished me by reducing my ECL and reducing my pay for exercising my sincerely held Native American religious beliefs in violation of 42 U.S.C. § 2000(cc-1):

No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined by § 1997 of this title, even if the rule results from a rule of general application, unless the government demonstrates that imposition of that burden on that person:

1. is of a compelling government interest; and
2. is the least restrictive means of furthering that governmental interest.

8. Therefore, Respondents Grogan and Whitten can not impose a substantial burden on my free exercise of my sincerely held Native American religious beliefs by making me put away my sacred items (two eagle feathers & 3" dream catcher) in my locker or my gray property box and punishing me by reducing my ECL for practicing my Native American religious beliefs.

9. See also Oklahoma Religious Freedom Act, 51 O.S. §§ 253, 254"

A. Except as provided by subsection B of this section, no governmental entity shall substantially burden a person's free exercise of religion even if burden results from a rule of general application.

B. No governmental entity shall substantially burden a person's free exercise of religion unless it demonstrates that application of the burden to the person is:

1. essential to further a compelling governmental interest; and
2. the least restrictive means of furthering that governmental interest.

10. Respondents must show a compelling governmental interest by demonstrating that the religious activity—hanging two feathers, less than 12" long, from the head of my bunk and 3" dream catcher from my locker door at the foot of my bunk—is 1) presumptively dangerous to my health or safety; or 2) poses a direct threat to my health or safety, or security of other prisoners, correctional staff or the public. See Oklahoma Freedom of Religion Act, 51 O.S. § 253, 254.

11. Recently A.G. Hunter's office said there was no compelling governmental interest demonstrated by the Vian public school's denial of Native students wearing an eagle feather with their graduation gowns. See Exhibit C.

12. DOC recognizes my sacred items for individual possession—OP-030112.IX.B. and attachment B lists feathers and dream catchers as allowable religious items for individual possession, but Respondents policy in its inmate handbook (See Exhibit D) fails to list them as exemptions to personal items that must be put away in lockers or property box.

13. In an effort to change that, I submitted a request to staff (Exhibit E) and recommended a change to Respondent's policy—not response to date.

14. I am 1/2 Seminole/Mvskoke (Creek) Nation and my sincerely held Native American religious belief is accepted and practiced by my Nations (See Creek Indian Medicine Ways by David Lewis & Ann T. Jordan—Chapter Nine, pgs. 107, 108—Ceremonies (The Blessing Ceremony); and my sacred items are blessed at a sweat lodge ceremony here.

15. The punishment by Respondents—reduction in ECL and pay—and threat of further punishment forced me to comply (against my sincerely held Native American beliefs) was not without mental distress.

16. The practice of blessing (very similar to Christian's anointing) and dedicating the feathers for perpetual use are a long established practice (See Creek Medicine ways @ pgs. 107, 108) among my people.

III. REQUESTED REMEDY:

WHEREFORE, because there is no available appeal, or available speedy or adequate remedy and Petitioner 1) continues to face violation of his sincerely held Native American Religion beliefs; 2) continues to face the threat of further punishment without remedy for practicing his sincerely held religious beliefs;

Petitioner prays for a writ of prohibition/mandamus to stop Respondent's actions (reducing him to lower ECLs and pay) for practicing his Native American Religious beliefs; or in the alternative compel Respondents to recognize Petitioner's Freedom of Religion rights and to any other remedy this Court deems just and equitable.

EXECUTED under penalty of perjury at James Crabtree Correctional Center—first submitted July 11, 2019 (returned by the court clerk July 17, 2019 as failing to provide a case number when the court clerk provides the number not the inmate) and resubmitted August 1, 2019 and returned by the court clerk for an in forma pauperis form—September 09, 2019. I verify the attached documents are authentic copies of originals on file here.

Jincy McGirt, 09/09/19
Jincy McGirt, pro se Petitioner, #178480
216 North Murray St. Unit 5 south
Helena, OK 73741-1018

PROOF OF SERVICE

I certify that the motion for leave to proceed *in forma pauperis* and petition for writ of prohibition/mandamus were given to prison staff for mailing September 09, 2019 to:

Attorney General Mike Hunter
313 N.E. 21st Street
OKC, OK 73105-3498

Jincy McGirt, 09/09/19
Jincy McGirt, pro se Petitioner, #178480

GRIEVANCE A
Grievance Decision from Reviewing Authority

Inmate/Offender Name: Jimcy McGirt DOC Number: 178480
 Receipt Date: 7/19/19 Grievance Category Code: 4 Grievance Number: JCCC- 19-114

1. Discrimination 3. Complaint against staff 5. Disciplinary process 7. Medical 9. Records/Sentence Admin.
 2. Classification 4. Condition of confinement 6. Legal 8. Property/Trust Fund 10. Religion 11. Personal Identity
 Decision: Inmate McGirt, your concern was appropriately addressed in the request to staff. No relief is warranted.

Relief Denied

Reviewing Authority – Facility Health Services Admin (medical issues)

Date

Review Authority – Facility Unit Head

Date

I have received a copy of the decision of the reviewing authority.

Jimcy McGirt
 Signature of Grievant

July 22, 2019
 Date

Cathy Millers Cathy Millers
 Signature of Staff Witness and Printed Name of Witness

Date

You may appeal to the Administrative Review Authority or Personal Identity ARA at Department of Corrections, P.O. Box 11400, Oklahoma City, OK 73136-0400 or Medical ARA at 2901 N. Classen Blvd, Suite 200, Oklahoma City, OK 73106, within 15 days of the receipt of response using only DOC Form 060125V entitled "Misconduct/Grievance Appeal To Administrative Review Authority." Do not send this decision to the Administrative Review Authority or Medical ARA.

1. Original to file
2. Copy to inmate/offender

DOC 090124B (R 4/19)

Exhibit 2

EXHIBIT A-1
GRIEVANCE no. JCCC 19-114

INMATE/OFFENDER GRIEVANCE

Grievance code: 4Response due: 8-8-19

DO NOT WRITE ABOVE THIS LINE

Date July 16, 2019Facility or Unit JCCCName McGint, Jimmy
(Print)Facility Housing Unit Unit 5 southDOC Number 178480Date "Request to Staff" response received: 07/05/19

Have you previously submitted a grievance on this same issue? No If yes, what date _____, facility _____, grievance # _____. You must submit this completed original within 15 days of the receipt of the response to the "Request to Staff". The "Request to Staff" must have been submitted within 7 days of the incident. Do not include/attach anything to this grievance except the "Request to Staff" including the response. You may quote from or make reference to statutes, operations, field, or administrative memoranda, department publications (time sheets, inventory forms, assessments, etc.). You will be permitted only one opportunity to correct any error(s) made in submitting your grievance.

1. The nature of your complaint. This statement must be specific as to the complaint, dates, places, personnel involved, and how you were affected. One issue or incident per grievance. Use backside of this page only, if necessary. Mr. Grogan's response violates the practice of my Native American religion and burdens the free exercise thereof in violation of 510.S. § 253 without a compelling governmental interest, without a §) danger to the health, safety, or security of other prisoners, or myself, and 2) poses no direct threat to the health, safety, or security of others, prisoners, staff, or the public, 510.S. § 255 and 42 U.S.C. § 2000cc(1) RLUIPA
2. Informal action taken (including dates) to resolve the complaint, as well as the names of those employees from whom you sought an answer to your grievance. June 20, 2019 request to staff, response received 07/05/19, no remedy.

3. The action you believe the reviewing authority may lawfully take. Add the Native American sacred items to the exemption of personal items, per OP-030120.1X.B.(2) and Attachment B p.2, list of the inmate handbook - allowed by the Personal / Individual section of the above policy - which exempts my sacred items (Petticoats, dream catchers, & medicine bag) from storage in a locker or property box.

Grievance report sent to (warden/facility head/deputy director/correctional health services administrator):

Warden C. Whitten

Warden

Name

Title

Jimmy McGint

07/16/19

Signature of Grievant

Date Sent to Reviewing Authority

1. Original to file
2. Copy to inmate/offender

DOC 090124A (R 4/19)

Exhibit 2

EXHIBIT A-2

Must Be Submitted Through the Law Library
Inmate/Offender Grievance Process
REQUEST TO STAFF

RECEIVED

JUN 25 2019

TO: Mr. Grogan, U.M.

(NAME AND TITLE OF STAFF MEMBER)

FACILITY/UNIT: Unit-5 South

DATE: 06/25/19

JCCC LAW LIBRARY

I have have not X already submitted a "Request to Staff" or grievance on this same issue.
 If yes, what date: facility: grievance #:
 I affirm that I do do not X have a grievance pending on this issue.
 I affirm that I do do not X have a lawsuit of any type pending that relates in any way to this issue.
 If a lawsuit is pending, indicate case number and court:
 This request does X does not relate to a pending misconduct report. If it does, this request may only be answered by the disciplinary coordinator assigned to the misconduct.

SUBJECT: State completely, but briefly, the problem on which you desire assistance. This statement must be specific as to the complaint, dates, places, personnel involved, and how you were affected. One issue or incident per "Request to Staff." Your failure to specifically state your problem may result in this being returned unanswered.

June 20, 2019, you failed my "cell inspection" because my eagle feathers were hung on my bunk. The feathers were blessed at a sweat lodge ceremony and must be hung at the foot or head of my bunk to perpetually protect me from evil - this is an undue burden on the exercise of my Native American religion.
 (USE OTHER SIDE IF MORE SPACE IS NEEDED. DO NOT ATTACH ADDITIONAL PAGES.)

ACTION REQUESTED: State exactly how you believe your request may be handled; that is, what exactly should be done and how.

In order to practice my religion, my eagle feathers must be ^{perpetually} hung from either the head or foot of my bunk to protect me against evil.

NAME: McGirt, Jimmy
 (PRINT)

DOC NUMBER: 178480 UNIT & CELL NUMBER: Unit-5

SIGNATURE: Jimmy McGirt

WORK ASSIGNMENT: unassigned

DO NOT WRITE BELOW THIS LINE

DISPOSITION:

MOG:-t, All items must be in your locker or your property bag under your bunk, except - Radio, Television, Shoes, Picture, Fan and a book of religious significance.

STAFF MEMBER

DATE

RECEIVED

JUL 02 2019

Date response sent to inmate/offender: 7/2/19

1. Original to file
2. Copy to inmate/offender

JCCC LAW LIBRARY

Exhibit 2

OKLAHOMA STATE DEPARTMENT OF CORRECTIONS

New Arrival / Adjustment Review / Earned Credit Level - Nov 2008

DOC# 178480

Offender Information

Facility JCCC Facility Arrival Date 03/15/2006 LARC Arrival Date 06/26/1997
 Name MCGIRT, JIMMY DOC Number 178480 Gender MALE Date of Birth 10/17/1948
 Date of Assessment 07/26/2019 Housing Restrictions NO Identification NO
 Name of Emergency Contact McGirt, Lucretia L. Relationship Daughter Phone Number (918) 718-1389
 Address 101 Crestland Drive, Apt. M Norman, OK 73071 Will I/M reside at this address after re-entry? NO

Sentence Information

85% NO 57 O.S. 1991 Sec 521 eligible no data
 PPWP eligibility NO
 Assessed Security MIN Security Points A Assigned Security MED Mandatory Override? NO
 Misconduct History None found Active Misconduct Points 0 Date of last Misconduct 09/21/2011
 Parole Date 03/01/2021 Parole Stipulations None found
 Parole Conditions None found
 Escape History NO ESCAPES OR ATTEMPTS Escape Points 0
 Facility Security Level From Custody Escape Date Apprehension Date
 Escape Comment

Current Patterns of Behavior

Performance Rating = Poor, Good, Excellent, Outstanding

Staff EXCELLENT Program Participation EXCELLENT Job EXCELLENT
 Other Offenders EXCELLENT Personal Hygiene EXCELLENT Living Area EXCELLENT

Month/Year	Rating	Program / Job Evaluations	Assignment
01/2018	Good	Laundry: Laundry	
12/2017	Outstanding	Laundry: Laundry	
11/2017	Outstanding	Laundry: Laundry	
10/2017	Outstanding	Laundry: Laundry	

Case Plan

Initial Plan

Needs

Sex Offender - High/No

Plan of Action

No Plan Entered

Projected Enrollment
PENDING

Completion

Restrictions/Comments
Offender told to report to classes scheduled by psych services.

Updated Plan
Needs

Cognitive Behavior

Plan of Action

Thinking for a Change

Projected Enrollment
COMPLETEDCompletion
09/16/2004

Comments

LARC-ASSESSED-7/2/1997, MRT(Cognitive Beh.).
 LARC-ASSESSED-7/2/1997, Emotional Stability. Is currently MH Level Code "A".
 LARC-ASSESSED-7/2/1997. Has completed 24 hrs college this incar.. Completed Votech-Business&Admin

Mental Health

No Plan Entered

PENDING

VoTech

No Plan Entered

PENDING

OMS0188D 2017_08_07

DOC 060203A (R 11/08)

MILBCATH

07/26/2019 10:45

Exhibit 2

EXHIBIT B-1
COPY

OKLAHOMA STATE DEPARTMENT OF CORRECTIONS

New Arrival / Adjustment Review / Earned Credit Level - Nov 2008

DOC# 178480

Warden/District Supervisor or designee approval _____

Pre-Release _____

Financial _____

Employment _____

Program Referral _____

Residence _____

Comment _____

Earned Credit Level Eligible
 LEVEL 3

Effective Date
 08/01/2019

Action
 DEMOTION

Comment _____

Prepared by

Cathy Mullers

Chairperson

Date JUL 26 2019

Member

[Signature]

Date JUL 26 2019

Date JUL 26 2019

Date of Next Review 11/23/2019

Comments DEMOTION TO ECL 3 EFFECTIVE 8/1/19 DUE TO CELL INSPECTION FAILURES

Offender Signature

J. Mike Pitt 07/30/19

Date JUL 26 2019

COPY

EXHIBIT C

THE MYSKOKE NEWS

PG.4

June 2019

OSTEN

EMVPANAYV—ONE WHO TELLS THE STORY

GRADUATION GEAR, NAMES, AWARDS AND COFFEE

by GARY FIFE
RADIO SPECIALIST

OKMULGEE, Oklahoma—It's the time of the year when students march to the strains of "Pomp and Circumstance" and receive their coveted diplomas before hundreds of admiring parents.

Some Native students had encountered resistance when they tried to include items of Native regalia, such as eagle feathers, beaded caps and moccasins, but that is changing.

Here in Oklahoma, the state Attorney General sent a letter in a dispute to the Vian Public Schools over the issue. AG Mike Hunter's letter cited several legal ramblings focusing on religious exemptions for Native students and that such rules, (under the Oklahoma Religious Freedom Act) "must be to further a compelling government interest"

But he felt those school rules did not fulfill that interest. Essentially, he wrote, "I do not view a complete ban on eagle feathers as the only means essential to meeting the schools' compelling needs."

No idea on how broad this opinion goes or how many school districts might comply, but it damn sure is a step in the right direction.

The Forum News Service reports that the Minnesota state commissioner of education has urged schools in that state "to recognize American Indian students' ability to wear culturally significant regalia to their commencement ceremonies."

The Anchorage (Alaska) Daily News reported that this is the "first year that graduates in the Anchorage School District are explicitly allowed to wear regalia during graduation ceremonies." One Alaska Native family gave its graduate student a mortarboard cap made of sealskin and a matching stole to wear during the ceremonies.

Another education note: The Tulsa School District finally got around to officially renaming one of its elementary

Oak, to honor the oak tree on the spot where Myskoke people first settled in this region.

O.K., one more education thing, really.

For two decades, activists on the Pine Ridge Oglala Sioux reservation in South Dakota have battled against liquor stores located just outside of reservation boundaries. Those Nebraska stores sold millions of cans of beer to tribal residents, contributing to the plague of alcoholism in that area.

One of the leaders of that movement, Frank LaMere, a Ho-Chunk man, has been recognized for his dedication. Indian Country Today reports that LaMere received an honorary Doctor of Laws degree from Nebraska Wesleyan University.

LaMere wore two eagle feathers on his graduation cap.

The second Monday in October has been designated as Oklahoma Native American Day. Governor Kevin Stitt signed the measure late April. KFOR-TV reported that a similar bill was vetoed by former Governor Mary Fallin who said the legislation was an attempt to "diminish the long-standing support of November being proclaimed annually as Native American Heritage Month."

When celebrities display their high fashion dresses on the red carpet of the June 2019 Tony Awards, one of those dresses will be the design of a Native American.

An article on Native News Online said the ACONAV brand by designer Loren Aragon will be worn by Tony Awards Member Colleen Jennings-Roggensack.

ACONAV is a combination of Acoma Pueblo and Navajo. Aragon's there was something that was missing in me."

Taylor grew up south of Henryetta, Oklahoma in a community called Ryal. He said he had a regular childhood.

"It was a regular Indian childhood," he said.

He went to Hickory Ground number one with his family growing up but he always felt something was missing from his life.

"We would go to church and

did substitute a Canadian woman for an Alaskan one and a Canadian town for an Alaskan one.)

In an episode called, "The Traveler," actor Marika Silas plays police Sergeant Yuka Mongoyak in the fictional town called "Iglaak." She has to deal with a stranger who comes to the village.

The program is available on CBS All Access.

A story on Wisconsin Public Radio reports that a popular coffee merchant is changing the name of their company over concerns that the name was an "appropriation" of American Indian culture—and they're doing it all on their own!

The company was named after the Kickapoo River Valley and the owners were not aware that Kickapoo was the name of a Native Nation. They say they had never been confronted about the name.

Owner TJ Semanchin was quoted by Wisconsin Public Radio, "We recognized that this really is an act of appropriation and once that kind of reality sunk in, I think we realized that there's only one right decision here and that was to step away from the name."

Oklahoma Kickapoo Chairman David Pacheco was quoted by WPR: "It was surprising in this modern day that (Kickapoo Coffee) didn't know about the Kickapoo Tribe, and not just us, but also in Kansas and Texas," said David Pacheco, chairman of the Kickapoo Tribe of Oklahoma, in a press release from Kickapoo Coffee.

Maybe the company and the tribes should sit down and share a cup of coffee and get to know each other? (I'll have a café latte with Irish Crème, please.)

O.K., time to bring it on home again.

Myskoke poet, musician, and author, Joy Harjo has a couple of new additions to her incredible list of accomplishments.

Here's one from the Tulsa World that got missed: In December of last year, Joy Harjo is one of the 27 visual and literary artists chosen for the 2019 class of Tulsa Artist Fellows.

On top of that, she was named the 2019 winner of the Jackson Poetry Prize by Poets and Writers. Congratulations on both of these awards.

Hyatt Cerecres—I will see you

Exhibit 2

COPY
COPY

EXHIBIT E

Must Be Submitted Through the Law Library or Designee
Inmate/Offender Grievance Process

RECEIVED

REQUEST TO STAFF

TO: Program ServicesFACILITY/UNIT: OKC

JUL 15 2019

DATE: July 15, 2017

(NAME AND TITLE OF STAFF MEMBER)

ICCC LAW LIBRARY

I have have not X already submitted a "Request to Staff" or grievance on this same issue.
If yes, what date: facility: grievance #: XI affirm that I do do not X have a grievance pending on this issue.I affirm that I do do not X have a lawsuit of any type pending that relates in any way to this issue.If a lawsuit is pending, indicate case number and court: This request does X does not relate to a pending misconduct report. If it does, this request may only be answered by the disciplinary coordinator assigned to the misconduct.

SUBJECT: State completely, but briefly, the problem on which you desire assistance. This statement must be specific as to the complaint, dates, places, personnel involved, and how you were affected. One issue or incident per "Request to Staff." Your failure to specifically state your problem may result in this being returned unanswered.

The ICCC inmate personal property exemption to items which must be in a locker or property box does not include the Native American sacred items ("Religious Items") listed in OP-030112, IX, B. (2) and Attachment B, Allowable Items - Inmate Religious Property - Individual Possession, pg. 2 (feathers, dreamcatchers, medicine bag).

(USE OTHER SIDE IF MORE SPACE IS NEEDED. DO NOT ATTACH ADDITIONAL PAGES.)

ACTION REQUESTED: State exactly how you believe your request may be handled; that is, what exactly should be done and how.

Per OP-030112, IX, B. 3. (c) a change in policy is recommended to comply with the OS § 251 et seq - Oklahoma Religious Freedom Act §§ 253, 254 and add Native American sacred items ("Religious Items") to the list of exemptions - Personal Property, pg. 14 - which must be placed in locker or property box.

NAME: McGirt Jimmy

(PRINT)

DOC NUMBER: 178480UNIT & CELL NUMBER: 5 SouthSIGNATURE: Jimmy McGirtWORK ASSIGNMENT: unassigned

DISPOSITION:

DO NOT WRITE BELOW THIS LINE

STAFF MEMBER

DATE

Date response sent to inmate/offender:

1. Original to file
2. Copy to inmate/offender

DOC 090124D (R 4/19)

Exhibit 2